Remarks

Status of the Claims

Claims 1, 2, 4-16, 18-20, and 22-31 are pending in the application. All claims stand rejected. By this paper, claims 1, 5, 12, 15, 16, 18-20, 22-24, and 26-31 have been amended. For the reasons set forth below, Applicant submits that each of the pending claims is patentably distinct from the cited prior art and in condition for allowance. Reconsideration of the claims is therefore respectfully requested.

Claim Rejections –35 U.S.C. § 112, Second Paragraph

Claim 12 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claim 12 herein to recite "a content server." See, *e.g.*, paragraph [0021] of the present application.

Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 2, 4, 5, 10-16, 18-20, and 22-31 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Publication No. 2005/0022019 by Medvinsky et al. ("Medvinsky"). This rejection is respectfully traversed because Medvinsky fails to identically teach every element of the claims. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

Applicant respectfully submits that Medvinsky teaches using a time limiting parameter linked to a particular ***piece of content***, whereas the present claims are directed to an allotted playback duration granted to ***a device*** for playing back a particular body of content. As discussed in Applicant's previous response, paragraph [0014] of Medvinsky discloses that a playback time limit parameter depend on the running time of the presentation of a particular piece of content (*e.g.*, it may be set at 1.75 times the running time). Further, Medvinsky states that the playback time limit can be "obtained in a content license." Paragraph [0053].

Page 25 of the Office Action states:

> The Examiner agrees that the durations are ***associated*** with the device. Medvinsky provides playbacks allowed on a per device basis which are allocated upon transferring the content and the license to the device [0031]. Therefore, the rights in Medvinsky are "for the device" as claimed.

(Emphasis in original). Applicant respectfully submits, however, that paragraph [0031] of Medvinsky is unrelated to an allocated playback duration granted to a device. Further, Medvinsky does not use the words "per device" or indicate that a license somehow sets a playback duration for a particular device. To the contrary, Medvinsky discloses obtaining a playback time limit parameter in a ***content license***. See, *e.g.*, paragraph [0053].

The Examiner seems to be asserting that merely using a device that controls the playing of a particular song by using a playback time limit parameter associated with particular song somehow associates an allotted playback duration with the device. Applicant respectfully disagrees. Such a playback time limit parameter is for the particular song and not for the device. Nevertheless, to advance prosecution of the present application and further clarify the distinctions with the cited references, Applicant has amended claim 1 herein to recite:

> 1. In a client device, a method comprising:
>
> receiving a request for playback of digital audio or video content stored on the device, wherein the requested digital audio or video content is included within a ***particular body of content comprising a plurality of digital audio or video contents accessible by the client device***;
>
> determining an allotted playback duration granted to the device ***for playing back the particular body of content***;
>
> determining an elapsed playback duration for the device, the elapsed playback duration representing an amount of time previously consumed by the device ***while rendering the digital audio or video contents of the particular body of content***;
>
> determining whether a predetermined relationship between the elapsed playback duration and the allotted playback duration granted to the device is satisfied; and
>
> ***regulating playback of the particular body of content*** if the predetermined relationship between the elapsed playback duration

and the allotted playback duration granted to the device is determined to be satisfied.

(Emphasis added). Similar amendments have been made to the other independent claims. Support for the amendments may be found, for example, in paragraphs [0024], [0025], and [0039] of the present application.

Thus, the amended claims are clearly not directed to a playback time limit associated with a single piece of content. Rather, the amended claims clarify that the allotted playback duration granted to the device is ***for playing back a plurality*** of digital audio or video contents accessible by the device. Further, the amended claims determine an elapsed playback duration representing an amount of time previously consumed by the device while rendering the contents of the particular body of contents. In addition, because the durations are for the device and not a single piece of content, the amended claims regulate the playback of the particular body of content and not just a single piece of content associated with a lapsed content timer. Medvinsky is silent as to these aspects of the amended claims.

Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 6-8 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Medvinsky in view of U.S. Patent No. 5,586,264 by Belknap et al. ("Belknap"). Claim 9 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Medvinsky in view of U.S. Patent No. 5,708,422 by Blonder et al. ("Blonder"). These rejections are respectfully traversed. As discussed above, Applicant respectfully submits that claim 1 is allowable over Medvinsky. Thus, claims 6-9 are also allowable, among other reasons, as depending from claim 1.

As alternative rejections, claims 1, 2, 4, 5, 10-13, 15, 16, 18-20, 22-24, and 26-31 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Application Publication No. 2004/0139312 by Medvinsky et al. ("Medvinsky2") in view of Official Notice. Claims 6-8 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Medvinsky2 and Official Notice in view of Belknap. Claim 9 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Medvinsky2 in view of Official Notice and Blonder. Claims 13 and 25 stand rejected

under 35 U.S.C. § 103(a) as being allegedly unpatentable over Medvinsky2 and Official Notice in view of U.S. Patent Application Publication No. 2002/0013784 by Swanson et al. ("Swanson").

These rejections based on Medvinsky2 are respectfully traversed for the same reasons discussed above with respect to Medvinsky. Namely, Medvinsky2 does not teach or suggest determining an allotted playback duration granted to a device for playing back a particular body of content comprising a plurality of digital audio or video contents accessible by the device. See, *e.g.*, paragraph [0031] of Medvinsky2 (discussing a ***content license***).

Further, Medvinsky2 does not teach or suggest determining an elapsed playback duration representing an amount of time previously consumed by the device while rendering the contents of the particular body of contents. In addition, Medvinsky2 does not teach or suggest regulating the playback of the particular body of content and not just a single piece of content associated with a lapsed content timer.

Page 18 of the Office Action asserts that an elapsed playback duration representing an amount of time previously consumed by the device while rendering digital audio or video content is inherent to paragraph [0031] of Medvinsky2. Applicant respectfully traverses this assertion. Paragraph [0031] is unrelated to time durations. Rather, paragraph [0031] is directed to the number of times that a piece of content may be played. Trick play such as pause, fast forward, reverse, etc. may drastically change an amount of time that it takes to playback a particular piece of content. Thus, an amount of time previously consumed while rendering a particular content item (*e.g.* song) is not the same as a number of times that the particular content item may be played back.

Page 19 states that "the Examiner takes Official Notice that it is notoriously old and well known in the art that a playback of a piece of content corresponds to a period of time, because the ***length of a piece of content is finite*** each playback of the content corresponds to that finite period of time." (Emphasis added). Applicant respectfully traverses the Examiner's assertion of Official Notice and requests that the Examiner provide documentary evidence of this assertion. As discussed above, trick play such as pause, fast forward, reverse, etc. may drastically change an amount of

time that it takes to playback a particular piece of content. Thus, an amount of time previously consumed while rendering a particular content item (*e.g.* song) is not the same as a number of times that the particular content item may be played back. Accordingly, persons of ordinary skill in the art would recognize that an elapsed and allotted playback durations in time increments are ***not the same*** as setting a limit on the number of times that a content may be played back. Indeed, Alexander Medvinsky, the common inventor in the Medvinsky and Medvinsky2 references, recognized this fact in the Medvinsky reference (2005/0022019), paragraphs [0009]-[0013] (stating that drawbacks of limiting playback by the number of times that content is played include hacking to prevent the enforcing process from ever detecting that playback has completed, as well as pause, rewind, fast forward, slow motion, stop, etc. that make it difficult to tell whether the user has completed viewing a presentation). Further, one of the problems solved by the present application is that some previous systems only allow a user to use N registered devices. See paragraph [0004] of the present application. None of the cited references are directed to solving this problem. The present application solves the problem by using a *device usage model* that allows users to download content items "freely without concern as to the number of times the content has been previously downloaded or rendered." The Examiner's Official Notice is contrary to the present solution.

Accordingly, Applicant respectfully requests that the rejections based on Medvinsky2 be withdrawn.

Conclusion

For at least the foregoing reasons, the cited prior art references, whether considered individually or in combination, fail to disclose each of the limitations in any of the pending independent claims. For at least the same reasons, each of the claims depending therefrom are also patentably distinct from the cited prior art.

In view of the foregoing, all pending claims represent patentable subject matter. A Notice of Allowance is respectfully requested. If further issues remain to be resolved, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner.

Respectfully submitted,

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